

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
St. John's Preparatory School)	File No. SLD-262413
Astoria, New York)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: January 14, 2003

Released: January 15, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by St. John's Preparatory School (St. John's Prep), Astoria, New York.¹ St. John's Prep seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator), rejecting St. John's Prep's appeal on the grounds that it was untimely filed.² For the reasons set forth below, we deny St. John's Prep's Request for Review.

2. SLD issued a Funding Commitment Decision Letter on July 23, 2001, denying St. John's Prep's request for discounted services under the schools and libraries universal service support mechanism.³ Specifically, SLD denied St. John's Prep's request for discounts for internal connections, Funding Request Number (FRN) 686648.⁴ On September 17 and 19, 2001, St. John's Prep filed appeals of SLD's decision, explaining that its appeal was filed more than 30

¹ Letter from Brian Farren, St. John's Preparatory School, to Federal Communications Commission, filed March 21, 2002 (Request for Review).

² See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to William Higgins, St. John's Preparatory School, dated July 23, 2001 (Funding Commitment Decision Letter).

⁴ *Id.*

days late due to the fact that it was closed over the summer.⁵ On October 1 and 15, 2001, SLD issued Administrator's Decisions on Appeal indicating that it would not consider St. John's Prep's appeals because they were received more than 30 days after the July 23, 2001 Funding Commitment Decision Letter was issued.⁶ St. John's Prep subsequently filed the instant Request for Review with the Commission.

3. For requests seeking review of decisions issued before August 13, 2001 under section 54.720(b) of the Commission's rules, an appeal must be filed with the Commission or SLD within 30 days of the issuance of the decision that the party seeks to have reviewed.⁷ Documents are considered to be filed with the Commission or SLD only upon receipt.⁸ The 30-day deadline contained in section 54.720(b) of the Commission's rules applies to all such requests for review filed by a party affected by a decision issued by the Administrator.⁹ Because St. John's Prep failed to file an appeal of the July 23, 2001 Funding Commitment Decision Letter within the requisite 30-day appeal period, we affirm SLD's decision to dismiss St. John's Prep's appeal to SLD as untimely and deny the instant Request for Review.

4. To the extent that St. John's Prep is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules, we deny that request as well.¹⁰ The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.¹¹ St. John's Prep has not shown good cause for the untimely filing of its initial appeal. St. John's Prep explains that it received the Funding Commitment Decision Letter during the summer when its offices were closed and replied at the earliest date possible and as a result it allowed the 30-day appeal period to pass without filing a timely appeal.¹²

5. We conclude that St. John's Prep has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than

⁵ Letters from Brian Farren, St. John's Preparatory School, to Schools and Libraries Division, Universal Service Administrative Company, filed September 17 and 19, 2001 (Requests for Administrator Review).

⁶ Letters from Schools and Libraries Division, Universal Service Administrative Company, to Brian Farren, St. John's Preparatory School, dated October 1 and 15, 2001 (Administrator's Decisions on Appeal).

⁷ 47 C.F.R. § 54.720(b).

⁸ 47 C.F.R. § 1.7.

⁹ Due to recent disruptions in the reliability of the mail service, the 30-day appeal period has been extended by an additional 30 days for requests seeking review of decisions issued on or after August 13, 2001. *See Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, FCC 01-376 (rel. Dec. 26, 2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. Dec. 28, 2001 and Jan. 4, 2002). Because the July 23, 2001 Funding Commitment Decision Letter was issued before August 13, 2001, the extended appeal period does not apply to St. John's Prep.

¹⁰ *See* 47 C.F.R. § 54.720(b).

¹¹ *See* 47 C.F.R. § 1.3.

¹² Request for Review.

strict adherence to the general rule.¹³ In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of submitting its appeal to SLD within the established deadline if the applicant wishes its appeal to be considered on the merits.

6. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of adhering strictly to its filing deadlines.¹⁴ In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its appeal to SLD if it wishes its appeal to be considered on the merits. We therefore find no basis for waiving the appeal filing deadline.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review filed by St. John's Preparatory School, Astoria, New York on March 21, 2002, and the request to waive the 30-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁴ See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. rel. Nov. 24, 2000), para. 8 (“In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.”).